

# **COLLECTIVE BARGAINING AGREEMENT**

**Between the**

**Bernalillo Public Schools**

**and**

**NEA - Bernalillo**

**2022-2023**



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## **PREAMBLE**

THIS AGREEMENT IS MADE AND ENTERED INTO by and between the Bernalillo Public Schools Board of Education (hereinafter referred to as the “District”) and the NATIONAL EDUCATION ASSOCIATION-BERNALILLO (hereinafter referred to as “NEA – Bernalillo” or the “Association”). The purpose of this agreement shall be to delineate the rights of employees in such a manner as to promote excellence in the delivery of quality educational services to the students of the District and the Bernalillo School District Community.

### **1. RECOGNITION**

A. The District recognizes the Association for purposes of collective bargaining within the parameters established in District policy and regulations as the exclusive representative for all non-supervisory, non-managerial and non-confidential employees of the Bernalillo School District. All positions recognized by the parties through their past practices as bargaining unit positions shall continue as bargaining unit positions for the duration of this agreement. Coordinators who do not evaluate other District employees shall be included in the Association’s bargaining unit.

B. Unless otherwise indicated, as used in this Agreement, the term “employee” means an employee in the bargaining unit defined in Section A above.

C. If the District creates a new position, the District shall notify the Association of its intent. The parties shall meet in an attempt to agree whether or not the position should be included in the bargaining unit. If the parties cannot agree, the Association shall be free to file a unit clarification petition with the School Board or a labor board with jurisdiction.

D. If the District anticipates paying a stipend for a position included in the Association’s bargaining unit that is not already set forth in the Stipend Appendix A or outlined as a requirement of a grant, the District shall meet with the Association and negotiate the stipend.

### **2. BARGAINING PROCEDURE**

A. Not later than February 1 of the year this agreement expires, either party to this Agreement may initiate negotiations for a successor agreement. This provision does not imply continuing recognition beyond the term of this Agreement. Such bargaining may, at the request of either party, include any matters covered by this Agreement or any matters not so covered which are legally permissible subjects of bargaining as defined by District

policy and regulations. However, this language shall not be interpreted in such a fashion as to transform an otherwise permissive subject of bargaining into a mandatory subject of bargaining simply because it exists in this Agreement. Any agreement so bargained will be reduced to writing and subject to ratification by the parties shall be signed by the District and the Association.

B. Upon reasonable request, the District will make available to the Association all information classified as “Public Information” and may exchange additional information that it believes will assist in reaching agreement. The provision shall not require the District to conduct analysis or create reports that are not readily available.

C. If the parties reach an impasse during their negotiations, either party may initiate impasse resolution procedures that are consistent and in compliance with the impasse resolution procedures mandated by the Public Employee Bargaining Act at the time of the impasse.

D. Except as this Agreement shall hereinafter otherwise provide, all terms and conditions of employment applicable on the effective date of this Agreement to employees covered by this Agreement as established by the rules and regulations of the District in force on said date, will continue to be so applicable during the term of this Agreement. Notwithstanding the foregoing provision, the District reserves the right to change rules and regulations provided such changes do not specifically and directly conflict with the provisions of this Agreement. Prior to such changes, however, the District shall meet with the Association and make good faith effort to discuss and reach agreement on such proposed changes.

### **3. GRIEVANCE PROCEDURE**

#### **A. Definitions**

1. A ‘grievance’ is a dispute pertaining to a claim which alleges a violation of any of the provisions of this Agreement. Employees are required to follow the steps of the grievance procedure.
2. An employee may skip a step in the grievance procedure if the employee claims a good faith belief that the person at that step is discriminating against the employee as prohibited by Article 21 A of this Agreement. Employees who have questions regarding this process should consult with their supervisor or the Human Resources Director or the Association.
3. A ‘grievant’ is an employee, group of employees or the Association.

4. A 'party in interest' is the employee or employees making the claim or any person who might be required to take action or against whom action might be taken in order to resolve the claim.
5. The term 'days' for the purpose of this Article shall mean Monday through Friday, not including holidays observed by the District.
6. An employee or the Association with a complaint or concern relative to other employment terms, conditions and/or related personnel matters not specifically covered in this Agreement may first address the complaint or concern with the affected employee's immediate supervisor. If the complaint is not resolved with the immediate supervisor, the complaint or concern may be brought to the attention of the Superintendent who shall determine the final resolution of such matters. An employee may skip the immediate supervisor stage if the employee cites a discrimination complaint as set forth in Definition # 2 above.

## **B. Purpose**

The purpose of this procedure is to secure, at the lowest possible administrative level, equitable solutions to the problems which may from time to time arise involving the matters dealt with in this Agreement. Both parties agree that these proceedings will be kept as informal and confidential as may be appropriate at any level of the procedure.

## **C. Procedure**

Since it is important that grievances be processed as rapidly as possible, the time limits specified at each level should be considered as a maximum and every effort should be made to expedite the process. The time limits specified may, however, be extended by mutual written agreement. If a supervisor has no authority to resolve the grievance, the supervisor will immediately inform the grievant and the grievant may immediately proceed to the next level of the procedure.

If the District fails to comply with the time limits requirements as set forth under any of the procedure levels, the grievance shall be considered automatically appealed to the next level of the procedure.

If the grievant fails to comply with the grievant's time limit requirements as set forth under any of the procedure levels, the grievance shall be considered null and void. If, for any reason, a grievance advances to the level of the arbitrator and there is a procedural defect in the filing of the grievance or the time frames for filing the grievance were not strictly adhered to, the arbitrator shall be required to dismiss the grievance with prejudice.

**1. LEVEL ONE**

a. Within twenty (20) days after a grievant knew or should have known of the occurrence of the event upon which the grievance is based, he/she will discuss it with his/her immediate supervisor, either directly or through a designated Association Representative, with the objective of resolving the matter informally.

b. If a grievance is not resolved within five (5) days at the informal level, a written grievance may be filed with the supervisor and, if applicable, with the Association within the aforesaid time limits. The grievance must be timely submitted and contain at a minimum the contractual provision(s) of this Agreement alleged to have been violated, the facts constituting the alleged violation, the date of the incident giving rise to the grievance, the names of any known witnesses and the relief sought.

**2. LEVEL TWO**

a. If, after ten (10) days from the date the grievance is filed with the supervisor the grievance is not resolved, a grievance may be filed with the Superintendent. Each party, at their own expense, shall be entitled to bring documents and/or witnesses to the meeting in order to present evidence on their behalf. Each party shall have the right to cross examine witnesses brought by the other party.

b. Within fifteen (15) days after receipt of the written grievance by the Superintendent, the Superintendent will meet with the aggrieved employee and a representative of the Association in an effort to resolve it. The Superintendent shall render his/her decision within fifteen (15) days of the meeting with the grievant.

**3. LEVEL THREE**

a. If the aggrieved employee is not satisfied with the disposition of the aggrieved party's grievance at Level Two, the aggrieved party may request in writing that the Association submit his/her grievance to arbitration. The Association may, by written notice to the Superintendent within fifteen (15) days after said decision was due if no decision has been rendered, submit the grievance to arbitration. The Association shall use the Federal Mediation Conciliation Service's (FMCS) approved and current notice to inform the Superintendent of its intent to arbitrate.

b. The arbitrator will be selected from a list of seven (7) arbitrators requested from the Federal Mediation and Conciliation Service. The moving party to the arbitration shall be responsible for the administrative paper work

involved in obtaining the list. The moving party to the arbitration shall strike first and the parties shall then alternatively strike names until there is one name remaining who shall be the arbitrator.

c. The arbitrator so selected will confer with the representatives of the Superintendent and the Association and hold hearings promptly and will issue the Arbitrator's decision as soon as possible but no later than a mutually agreed upon timeline from the date of the close of the hearings or, if oral hearings have been waived, then from the date the final statements and proofs are submitted to the arbitrator. The arbitrator's decision will be in writing and will set forth the arbitrator's findings of the fact, reasoning and conclusions on the issues submitted. The arbitrator will be without power or authority to make any decision which requires the commission of an act prohibited by law or which adds to, subtracts from, or is violation of the terms of this Agreement. The arbitrator shall not have the authority to render a judgment on any matter that has been retained as indicated in Article 6 of this Agreement. The decision of the arbitrator will be submitted to the Superintendent and the Association, shall be final and binding upon the parties and shall constitute an award within the meaning of the Uniform Arbitration Act. Reasons for appeal to court are set forth in the Uniform Arbitration Act.

d. All mutually incurred costs of the arbitration, including the costs for the services of the arbitrator, the arbitrator's travel and subsistence expenses and the cost of any hearing room, will be borne equally by the District and the Association. All other costs will be borne by the party incurring them, including the cost of witnesses. Employees called as witnesses by the Association will be on paid time; however, the Association will reimburse the District the substitute's rate for each witness called even if no substitute is utilized. A reasonable effort will be made to schedule each employee's testimony or participation in such hearings in order to avoid or minimize the disruption of their work time.

#### **D. Miscellaneous**

1. No reprisals or retaliation of any kind by any party will be taken against any participant or witness in the grievance procedure by reason of such participation.

2. An employee may be represented at all stages of the grievance procedure by the employee alone, or, at the employee's option, by a Grievance Representative selected by the Association. The party charged is also entitled to representation. If an employee is not represented by the Association, the written grievance shall be filed with both the supervisor and the Association. The grievant shall be responsible for apprising the Association of any scheduled grievance meetings or hearings on his/her grievance, and the Association will have the right to be present and to state its views at all stages of the grievance. If the employee does not communicate with the Association or provide reasonable notice to afford the Association's

participation as herein provided, this behavior shall be cause for denial of the grievance without further recourse.

3. If, in the judgment of the Association, a grievance affects a group or class of employees, the Association may initiate and submit such grievance in writing to the Superintendent directly. The processing of such grievance will be commenced at Level Two unless the supervisor at Level One has the authority to resolve the grievance, in which case the grievance shall be initiated at that level.

4. If a grievance arises from action or inaction on the part of a member of the administration at a level above the principal or immediate supervisor, the aggrieved employee, within twenty (20) days after the aggrieved party knew or should have known of the occurrence of the event upon which the grievance is based, will submit such grievance in writing to the Superintendent and the Association directly and the processing of such grievance will be commenced at Step Two.

5. It is understood that the grievant's and the Association's processing of grievances shall be conducted on non-district time unless otherwise agreed to by the parties, and related meetings and hearings shall be scheduled accordingly. When such scheduling at Levels One or Two is not practicable and only if the parties agree that it is necessary for a grievance meeting or hearing to be conducted during the duty day, the employee(s) and designated representative(s) will be released without loss of pay as appropriate and necessary in order to permit participation in the foregoing activities. Any employee whose appearance in such investigations, meetings, or hearings as a witness is necessary will be accorded the same right so long as there is mutual agreement between the parties, otherwise the meetings/hearings shall be mutually scheduled on non-paid time.

6. All documents, communications and records dealing with the processing of a grievance will be filed in a separate grievance file and will not be kept in the personnel file of any of the participants. This provision shall not apply to documents related to a grievance over a disciplinary action unless such documents are removed from an employee's personnel file as a relief given in the disposition of a grievance.

7. Form for filing and processing grievances are attached at Appendices B and C. of this agreement.

#### **4. EMPLOYEE – ADMINISTRATIVE LIAISON COMMITTEE**

A. The Association and the District will select a district-wide Liaison Committee to meet as needed but no more than once per month to review and discuss wages, hours or other terms and conditions of employment or other items both parties agree to in advance to discuss. The Committee will consist of not more than four (4) members from the Association and four (4) from the District unless otherwise mutually agreed upon. It is understood

that the Association and District retain the right to select whomever they choose to represent their interests on the Committee.

B. The purpose of the Liaison Committee and the periodic meetings between the Association President and/or other designated representatives and the Superintendent is not for the purpose of renegotiation of this Agreement.

C. When any issue is brought to the Committee that relates to an individual employee's concern with site supervision or any other condition taking place at the employee's site, an effort will be made to address the concern with the employee's supervisor before the issue is brought to the Committee for the examination and redress.

## **5. ORGANIZATIONAL RIGHTS AND PRIVILEGES**

A. There will be no reprisals of any kind taken against an employee by reason of an employee's membership in the Association or participation or non-participation in any of its legal activities.

B. No later than twenty (20) calendar days after the first work day for all employees of each school year, the Association shall provide the District with a written list of Association representatives at each work site. These representatives shall be considered the only Association representatives for whom the District shall provide representation rights set forth in this Agreement. If the Association makes changes in these assignments during the year, the Association shall provide the District with a written notification of the new assignment(s). The District shall not be obligated to honor the assignment change until the written notification is received by the District.

C. With the approval of the Superintendent, the Association will be provided eleven paid leave days to be used by Association officers or representatives. The usage of such days shall be accomplished by appropriate scheduling and coordination with the supervisor or Superintendent to minimize interruption with the educational process or District operational needs. To the extent possible, these days will be scheduled as far in advance as possible and placed on the District's calendar. The Superintendent may approve additional paid days for Association business; however, the Superintendent's decision shall not be subject to the Grievance Procedure.

D. In order for the Association to administer this Agreement properly, the Representatives of the Association will have access to all school buildings and to all employees, provided that the exercise of this right does not interfere with the educational program. Accordingly, the Board and the Association agree that NEA-Bernalillo representatives may meet with employees at the work site during lunch or break time to fulfill the obligations of the Association to represent employees by virtue of this Agreement. Association representatives will check in with the office or administrator in charge in accordance with District policy.

E. The District will, upon request, provide the Association with Board approved preliminary and final approved budgets, published staff directories and employee listings indicating employees' work location, assignment and/or job title; salary, increments, education and/or experience data used for salary placement justification, and other available public information needed for negotiations purposes. This provision does not require the District to create new reports or perform additional analyses in order to provide such information or materials.

F. The District shall make available to the Association a copy of Board of Education agendas and one copy of Board meeting materials except materials not classified as public information. Such information shall be made available to the Association at the same time it is provided to the board members. The District will share with the Association information regarding the names and work assignments of new unit employees and all unit employees who are separating from the District. Any additional public information requested by the Association will be provided by the District in a timely manner.

G. The Association:

- Will have the right to use school buildings without cost at reasonable times for meetings provided such use is consistent with the District's normal building use policies and schedule requirements. Association meetings shall not take priority over school sponsored events involving parents or students in scheduling.
- May continue to use school facilities and equipment, including computers, typewriters, duplicating equipment, calculating machines, public address equipment and audio-visual equipment at reasonable times and in accordance with District policies and procedures or such use.
- Will have the use of inter-school mail services, employee mailboxes, and school bulletin boards in employee lounges and work rooms to further its responsibilities as exclusive representative and address other matters that are appropriate to good labor/management relations. When a concern has been identified with NEA-Bernalillo's approach to postings, NEA-Bernalillo shall meet with administration in a collaborative effort to resolve the concern. If no resolution can be reached, the posting shall be revised or removed.
- May be afforded the opportunity have placed in the Superintendent's packet(s) to all new employees a letter prepared by the Association informing said employees that the Association is recognized as the exclusive representative for all employees in the Bernalillo Public School.
- May be provided the opportunity to attend and participate in the annual orientation meetings for new and returning employees for the purpose of distributing information about the Association and briefly welcoming employees.
- Agrees that the District will continue to deduct from the salaries of employees dues for the Association and its affiliated parent associations as said employees individually and voluntarily authorize the District to deduct, and to transmit the monies promptly to the Association. Said deductions will begin and end with an official

written notification by the Association to the District business office. The Association will defend and hold the District harmless on any liability that may arise as a result of compliance with this Article provided that deductions made by the District were not in violation of this Article.

H. The rights and/or privileges granted to the Association by this Article will not be granted to any other organization which purports to represent any employee covered in this Agreement.

## **6. MANAGEMENT RIGHTS**

A. In addition to the rights enumerated in the Board's Policies and unless limited by the provisions of a collective bargaining agreement, the employer's rights shall include, but are not limited to the following:

1. To direct and supervise all operations, functions and the work of the employees; to hire, lay off, promote, demote, assign, reassign, transfer, discipline, discharge, or terminate employees:
2. To determine what and by whom education will be provided to the students:
3. To determine staffing requirements, create and abolish positions, or to eliminate or reorganize work units:
4. To determine the need for and the qualifications of new employees, and to determine the qualifications for and qualifications of employees considered for transfer and promotion.
5. To take actions as necessary to carry out the mission of the employer in emergencies: and
6. The employer retains all rights not specifically limited by a collective bargaining agreement and such rights shall not be subject to the grievance procedure contained in this agreement.

## **7. HOURS AND WORKLOAD**

### **A. Work Year**

The regular work year for employees in each of the various employee groups covered by this Agreement shall be:

|                             |          |
|-----------------------------|----------|
| Nine (9) month employees    | 182 Days |
| Ten (10) month employees    | 200 Days |
| Eleven (11) month employees | 210 Days |
| Twelve (12) month employees | 237 Days |

Certified employees assigned additional annual workdays shall be compensated at their daily rate of pay.

## **B. Certified Instructional Employees Work Day**

1. All employees will be assigned normal starting and dismissal times by their immediate supervisor, Monday through Friday. The total normal workday will be seven and a half (7 ½) consecutive hours, including at least thirty (30) minute duty-free lunch period. The length of the regular required workday will be substantially equivalent for all certified instructional employees unless an operational necessity dictates otherwise.
2. An 'operational necessity' shall be defined as a condition that is mandated by the State of New Mexico, New Mexico Public Education Department or the United States Department of Education and which requires the District to assign licensed instructional employees to professional responsibilities beyond the normal workday.
3. As soon as possible after the District receives the mandate, the District shall meet and confer with the Association on the implementation of any operational necessity experienced by the District. If the parties agree that modifications to the Agreement need to be made, the parties will execute a memorandum of understanding reflecting any modifications to wages, hours, the impact on educational programs or practices that are mandatory subjects of bargaining.
4. When delayed openings occur due to inclement weather, the workday of employees will be adjusted the same amount of time as the students' delayed reporting. When inclement weather requires early dismissal, employees' dismissal will be dependent on the presence of students and other operational needs. Under normal circumstances, operational needs shall not include staff meetings. The safety of students and employees will be the determining factor.
5. In addition to the normal workday provisions set forth in (7.B.1) above, licensed instructional employees shall complete student assessments, lesson preparations, and parent conferences that may result in an extension of the normal workday. The instructor shall have the discretion to determine whether the responsibility will be performed during the work day or beyond the work day.
6. Each licensed school instructor may be required to attend a maximum of three (3) evening assignments each year without additional compensation. These assignments may include, but not necessarily be limited to, open house and seasonal programs. The instructor's immediate supervisor shall be authorized to consider reasonable accommodations for licensed instructional employees who request to be excused from an evening assignment for good cause.
7. The building principal may extend the normal workday set forth in (7.B.1.) above a maximum of two (2) additional hours each twenty (20) work day period without additional employee compensation for faculty meetings and other professional responsibilities. Licensed instructional employees shall receive reasonable notice of any extension.

8. The principal is further authorized to accommodate instructor requests for flex time resulting from personal exigencies that require alterations in the instructor's work day set forth above.

9. Professional responsibilities for which a licensed instructional employee receives additional compensation from the District shall not be considered part of the professional responsibilities set forth under paragraphs (7.B.4.; 7.B.5; and 7.B.6) above.

10. The District and the Association shall conduct ongoing meet and confer discussions to monitor the implementation of the Instructors' work day provisions. If the parties agree that further modifications need to be made, the parties will execute a memorandum of understanding reflecting the modifications.

11. The site administrator will schedule the work day for the school to provide adequate supervision of students before and after school and regular staff meetings. The site administrator and staff may agree to flexible scheduling to meet the needs of the school and/or the employees.

12. The District shall provide each licensed classroom instructor with a preparation period of a minimum time period of thirty (30) consecutive minutes each day. Each building administrator shall exceed the minimum required time period whenever possible. Each licensed classroom instructor assigned to an elementary school shall be provided two hundred (200) minutes preparation time during any regular five (5) day work week. The cumulative preparation time shall be reduced proportionately during shortened work weeks. The two hundred (200) minutes shall include the thirty (30) consecutive minutes guarantee cited above. Lesson preparation, student evaluation, record keeping, conferences and other work related activities shall be conducted during this time. Instructors shall determine the location where these duties shall be performed within their respective buildings provided that the selection does not interfere with their regularly assigned duties and does not impinge upon the duties or work site assignments of others. If the instructor will not be in their regular location, he/she will notify their supervisor of their temporary location. If the instructor leaves the work site to complete activities that are part of the job assignment, the employee shall notify the supervisor prior to leaving the work site. The supervisor may decline permission to leave if there is an identified need.

13. A teacher who receives permission to "sell" the teacher's preparation time shall be compensated in accordance with the following formula: Average site hours of teacher prep per day X teacher's hourly rate of pay X number of days on contract.

14. Middle and high school teachers shall normally be assigned to teach a maximum of two (2) subject areas (e.g., Social Studies, Science) preparations and a maximum of three (3) preparations within the assigned area(s). Programmatic needs may necessitate the assignment of more than two (2) preparations to a

teacher. When these necessities occur, the affected teacher and the school principal shall meet and confer in good faith on the deviation's impact on the teacher who will be assigned preparations in excess of two (2) preparations and the program prior to implementation of the change. If the District replaces a building principal at any of the schools in which this provision is applicable, the practice of good faith teacher/principal meet and confer collaboration established at the school shall be maintained. This commitment shall be limited to the collaboration process and shall not be interpreted to require a new principal to maintain a specific benefit for any teacher affected by this provision.

**C. Classified Employees**

The regular full-time work day for classified employees on the following salary schedules shall be:

| <u>Classification</u>    | <u>Hours</u>                                | <u>Normal Work Hours Range<br/>(Exclusive of Lunch Break)</u> |           |
|--------------------------|---|---|-----------|
| Instructional Assistants | 7.00 hours                                  | 7:30 a.m.   | 5:00 p.m. |
| Campus Security          | 7.50 hours                                  | 6:30 a.m.   | 5:00 p.m. |
| Office Personnel         | 8.00 hours                                  | 7:00 a.m.   | 5:00 p.m. |
| Maintenance              | 8.00 hours                                  | 7:00 a.m.   | 5:00 p.m. |
| Custodial                | 8.00 hours                                  | 6:00 a.m.   | 10:00 pm  |
| Warehouse/Purchasing     | 8.00 hours                                  | 7:00 a.m.   | 5:00 p.m. |
| Mechanic                 | 8.00 hours                                  | 7:00 a.m.   | 5:00 p.m. |
| Transportation           | Varying hours; dependent on assigned routes |   |           |
| <b>Food Services</b>     |   |   |           |
| Head Cooks               | 8.0 hours                                   | 5:30 a.m. – 3:00 p.m.   |           |
| Cooks                    | 8.0 hours                                   | 5:30 a.m. – 3:00 p.m.   |           |
| Cook Helper              | 4.0 hours                                   | 5:30 a.m. – 3:00 p.m.   |           |

Volunteers for late and/or early shifts will be accepted.

1. The site supervisor shall assign the head custodian's shift after consultation with the Association. If a site administrator anticipates changing the assignments, including room assignments, of custodians at the administrator's site, the administrator shall meet with the custodians prior to implementing the change. The custodians may be accompanied by an Association representative provided this accommodation does not delay the assignment process. The custodians shall be provided the opportunity for input on the proposed changes. Following the meeting the site administrator shall decide whether or not to implement the change.
2. Classified employees' regular hours of work shall be the number of consecutive hours indicated above, exclusive of lunch. Such hours normally will be scheduled within the indicated range, Monday through Friday, unless the specific operational needs of the District require a different recurring work schedule. Should a different

extended or permanent regular work schedule be needed for the employee(s), such needs will be discussed with the Association and affected employee(s) prior to implementation, and absent concurrence of the Association and affected employees, the employee(s) with the least seniority will be assigned the different work schedules. An alternate employee may be assigned if they possess a special skill for which there is a verifiable operational need.

3. The regular work hours for classified employees shall include a regular, non-paid duty-free lunch period of at least thirty (30) minutes and a paid non-cumulative morning and afternoon break of at least fifteen (15) minutes. Lunch periods and breaks are subject to reasonable scheduling and rescheduling by the site supervisor to provide appropriate student supervision and to meet the operational needs of the District.

4. When work assignments involve evening or weekend work, the District shall first seek qualified volunteers from the job classification (title) or special skills or qualifications required and location affected. If there are insufficient volunteers to meet the District's operational needs, employees will be assigned by reverse order of seniority on a rotating basis within the classification (title) or special skills or qualifications required and location affected. Notwithstanding the voluntary or other considerations stated above, the completion of a task in progress at the end of a normal work period may reasonably be assigned to the employee(s) performing such tasks.

5. Classified employees shall be paid overtime in accordance with the provisions of the Fair Labor Standards Act. The rate of overtime pay shall be one and one-half (1-1/2) times the employee's normal hourly rate of pay for hours worked over forty (40) in accordance with the Fair Labor Standards Act. An employee shall be required to obtain prior approval for all overtime. A classified employee who is required to work on one or more of the designated holidays shall be paid at the rate of two (2) times his/her normal hourly rate of pay for the actual hours worked. By mutual agreement of the employee and supervisor, compensatory time may be granted in lieu of overtime pay, provided such compensatory time shall be at the rate of one and one-half (1-1/2) hours compensatory time for each hour worked over forty (40) hours in a work week. Compensatory time may be accrued up to a maximum of forty (40) hours and must be used within ninety (90) days of the time when it is accrued. Compensatory time off shall be taken as soon as reasonably possible after its accrual. An effort shall be made to honor the employee's request for compensatory time off unless such time is unduly disruptive of District operations. If the employee's requested time off cannot be honored, the supervisor shall ensure that another reasonable opportunity is afforded for the employee to take compensatory time off; otherwise, said compensatory hours shall be paid at the employee's normal hourly rate.

6. Within the parameters of the Fair Labor Standards Act, the work hours for employees may be flexed within a work week. Supervisors shall attempt to obtain the employee's agreement as to how the hours are flexed. Reasonable employee requests that do not create undue operational problems shall be honored.

7. Custodial, maintenance or other classified employees called back to work after their normal work hours to conduct building checks, respond to alarms, etc., will be paid a minimum of two hours at one and half one half the times their normal hourly rate of pay or equivalent compensatory time off as provided above. Additional calls occurring within the two-hour call back period shall not be eligible for additional compensation unless the total amount of time work exceeds two hours, after which the employee shall be compensated for all hours actually worked. In the event any other call occurs outside the initial two-hour period it shall be compensated as a separate call in accordance with the provisions here in.

8. In the event the District establishes a standby program affecting bargaining unit members, the parties shall meet in a good faith effort to reach agreement on the level of compensation for the involved employees and a process that relies upon volunteers to the extent reasonable to meet the District's operational needs.

### **Job Specific Provisions for Classified Employees**

#### **C-1. SECRETARIES/CLERKS**

1. **Director/Principal Absences:** The director or principal shall inform the secretary of the identity of the certified employee to be responsible for the activities of the office or school during any absence of a significant duration by the director or principal from the office or building so such information can be disseminated to interested parties.

2. **Secretarial Responsibilities:** Secretarial employees shall only be assigned duties that are reasonably within the scope of their classifications and are not expected to have ongoing responsibility for student discipline.

3. **Substitute Secretaries:** The Board shall maintain a secretarial/clerical substitute list and when determined appropriate by the District will employ substitutes as soon as possible to cover the essential work of a secretary or clerk who is absent.

4. **Hazardous/Unsafe Working Conditions and working Alone in a Building:** A secretarial employee shall not be required to work in a hazardous or unsafe area (e.g., in the presence of toxic fumes or chemicals, in extreme weather conditions without appropriate heat or cooling, etc.) and shall not normally be assigned to work alone in a work site outside of regular working hours.

5. **Dispensing of Medication:** Medical personnel shall be assigned the responsibility to dispense medications to students.

6. **Technology/Methods of Operation:** Training will be provided to acquaint employees with changes in their job responsibilities as a result of a change in technology or methods of operation.

7. **Job Descriptions and Testing/Re-Testing:** A current job description shall be maintained for each secretarial employee and vacant position. A current employee seeking a transfer or reassignment to a different position requiring the use of the

same skills as their current job shall not be unreasonably required to be re-tested to demonstrate their possession of the minimum qualifications for the position.

8. **Heavy Moving/Lifting:** Secretarial employees shall not be required to perform tasks or duties that entail heavy moving or lifting reasonably beyond the scope of their classification.

## C-2 CUSTODIAL, MAINTENANCE, WAREHOUSE & MECHANIC EMPLOYEES

1. **Clean-Up Time:** Employees may be granted clean up time as determined by the supervisor, with a maximum of ten minutes prior to the end of each shift in the event the supervisor determines such time is necessary. Work schedules shall be arranged so employees are provided this time.

2. **Uniform/Clothing Allowance:** The District will continue to provide uniforms and clothing appropriate to the jobs and will meet and confer with the Association periodically to consider the adequacy of such provisions.

3. **Safety Equipment:** The District will follow applicable Federal and State safety laws.

## C-3 TRANSPORTATION PERSONNEL

1. **Bus Drivers:** Shall work the same number of days as required for transportation 'to and from' for District students. In addition, transportation personnel are required to complete sixteen (16) hours of professional development annually. These hours will be compensated at the driver's hourly rate. The workday shall consist of hours as their route calls for including cleaning of buses, pre- and post-trip inspections as calculated in the length of each route. On a workday when a school is unexpectedly closed and students will not be transported to and from the affected school, employees assigned to that school's runs will be paid for a full day's work provided the employees report to work in a timely manner and complete assignments made by the employees' supervisors.

2. **Bus Aides and Handicapped Routes:** The District will comply with applicable Federal and State laws and regulations regarding the transportation of special needs students, assignment of bus aides and related matters.

3. **Route Vacancies:** Route vacancies shall be posted for ten days and filled in accordance to the vacancy provision as follows: The posting shall include bus number, route pick up areas, estimated starting and ending times, time of first pick-up and total number of paid hours. Route vacancies shall be filled based on seniority. Any routes remaining shall be filled in accordance with the vacancy provision of the agreement.

4. **Bus Driver Waiver to Annual Bus Driver Institute:** Drivers wanting a waiver from attending the Annual School Bus Drivers Institute shall submit in writing their request to the transportation supervisor for proper follow through no later than sixty (60) days prior to the scheduled institute. Such waiver shall require Board approval. Emergency waivers are available on approval by the Board and the State Department of Pupil Transportation.

5. **Drug Testing:** A bus driver who is required to take either a random or reasonable suspicion drug test shall be compensated at the bus driver's regular hourly rate of pay for the time needed for the test including reasonable travel time.

#### C-4 INSTRUCTIONAL ASSISTANTS

1. **Substituting for Teachers:** Any Instructional Assistant who is authorized by a principal to substitute for a teacher shall receive \$10.00 for substituting a total of at least two (2) hours or up to three (3) hours and \$20.00 for substitute service in excess of three (3) hours on a given day. Any Instructional Assistant that does substitute duty shall be allowed adequate time to complete unfinished work resulting from absence from their regular assignment due to substituting. This provision shall not result in overtime unless otherwise dictated to meet an operational need. Principals shall assign Instructional Assistants substitute responsibilities based upon instructional needs, including special education needs. All instructional assistants shall be considered for substitute service. Instructional Assistants shall only be requested to substitute for teachers or for another Instructional Assistant. Instructional Assistants used as substitutes must be reported on the personnel leave report as substitutes for the purpose of accountability.

2. **Role of the Instructional Assistant:** The role of the paraprofessional is to assist – not replace – the teacher. The District will make every effort to reduce the number of Instructional Assistant classroom substitute assignments.

3. **Heavy Moving/Lifting:** Instructional Assistants shall not be required to perform tasks or duties that entail heavy moving or lifting reasonably beyond the scope of their classification.

4. **Hazardous/Unsafe Working Conditions and Working Alone in Building:** An Instructional Assistant shall not be required to work in a hazardous or unsafe area (e.g., in the presence of toxic fumes or chemicals, in extreme weather conditions without appropriate heat or cooling, etc.), and shall not normally be assigned to work alone in a work site outside of regular working hours.

#### C-5 FOOD SERVICE/ CAFETERIA EMPLOYEES

1. **Uniform/Clothing Allowance:** The District will continue to provide uniforms and clothing appropriate to the jobs as determined by the District. If the Association has concerns regarding the adequacy of such provisions, it may raise those concerns and provide input in the Employee-Administration Liaison Committee.

2. **Lunch:** The Food Service Department will provide a type A breakfast and lunch, free of charge for all food service employees.

3. **Cafeteria Staffing:** Reasonable effort will be made to adhere to the Sample Staffing Guidelines For On-Site Production Conventional System, as per the State Department of Education Student Nutrition Program cost control data.

4. **Individual Contract:** Head cooks are contracted on Level III of the Food Service Salary Schedule for 8.0 consecutive hours per day and 182 contract days. Cooks are contracted on Level II of the Food Service Salary Schedule for 8.0 consecutive hours per day and 182 contract days. Cook helpers are contracted on

Level I of the Food Service Salary Schedule for 4.0 consecutive hours per day and 171 contract days. Food Service employee normal working hours will range from the hours of 6:30 a.m. through 3:00 p.m., Monday through Friday.

5. **Safety Equipment:** The District will follow applicable Federal and State safety laws.

6. **Substitutes:** The Board shall maintain a substitute list for food service employees and when determined appropriate by the District will employ substitutes as soon as possible to cover the essential work of a food service employee who is absent.

## C-6 USE OF VEHICLES

1. **Safety:** Any employee using District vehicles and noticing what they consider to be unsafe conditions related thereto will report same to the Transportation Supervisor.

2. **Personal Vehicles:** An employee will not be required to use his/her personal vehicle for District business unless such use is a part of the employee's regular employment. Any employee required to use a personal vehicle will be reimbursed for such use in accordance with the District's mileage and per diem policy and is advised that the use of personal vehicle is at the employee's risk.

## 8. CLASS SIZE

The District shall determine staffing patterns and class size and teaching loads in accordance with state law and State Department of Education regulations. Any request made of the State Department of Education to waive class size load requirements shall be made available, upon request, to the Association. In determining staffing patterns, consideration will be given to the special needs of full inclusion students.

## 9. NON-INSTRUCTIONAL DUTIES

The District and the Association acknowledge that teaching is the main and primary responsibility of a teacher. Non-instructional duties shall be assigned to all teachers on an equitable basis.

## 10. VACANCY POSTINGS

A. Notice of vacancies identified by the Human Resources Department and call for applications for positions within the bargaining unit will be made as such vacancies develop. This provision shall not apply in the event the District determines that the position is to be filled for less than one half of the school year or the District wishes to utilize the services of a long term substitute. The notice will include the minimum requirements, varying descriptions, any application restrictions and the deadline for submission of applications. Such notice, from the date of publication shall be posted for a minimum of five (5) working

days prior to the time such vacancies are filled. During non-school periods, the posting shall be on the Office of Human Resources website.

B. The Office of Human Resources will identify and will make every effort to post known vacancies for the next school year by April 15. Other vacancies that occur after April 15 will be posted when known by the Office of Human Resources.

C. Summer school positions or probable positions will be advertised no later than April 30 of each year or as soon as possible after grants have been approved. Employees currently employed by the District will be given first consideration in filling summer positions. Successful applicants will be notified as soon as possible prior to the end of the regular school year.

D. Applications for positions will be submitted to the Office of Human Resources. Applications for the positions posted shall be only for the position applied for, or, if the position is general in nature, for the school year in which said position was advertised.

E. Voluntary transfer requests on file or filed with the Office of Human Resources shall be considered before new employees are placed.

F. Vacancy postings will be sent to the President of NEA-Bernalillo as vacancies occur.

## **11. HIRING, ASSIGNMENTS, TRANSFERS AND PROMOTIONS**

The District and the Association agree that the hiring, assignment, transfer and promotion of employees must be fair, must enable the selection of the person(s) the District determines best suited to help meet District goals, and will be compatible with the District's affirmative employment needs. The District shall determine groups and/or individuals to be involved in the screening and interviewing process. Such groups may include site management committees. All actions and/or recommendations of such groups are subject to the final approval of the District.

The process for hiring, transfer and assignment of employees will entail provisions wherein employees are afforded an opportunity to make their views and desires regarding such matters known to the District, the District takes into consideration such employees' views and desires along with the educational process and District's operational needs, and where employees meet the educational purpose and requirements, selection will be made from the best qualified employee applicant or volunteer or external applicant pool who best meets the District's educational or operational needs. Such selections will be made based on knowledge, skills, abilities, demonstrated work performance, attendance on the job, and other relevant factors, and where such factors are equal, preference will be given to current employee applicants or volunteers on the basis of employees' seniority.

## **A. Assignments**

1. The Superintendent will assign continuing and new employees to their specific positions, which positions will be within the subject area and/or grade level or job classification for which the employee is qualified. Employees' expressed desires and input will be taken into consideration in such assignments decisions.
2. The Superintendent will give notice of assignments to new employees as soon as practicable. All other employees will be given written notice of their class and/or subject assignments, building assignments and room assignments for the forthcoming year as soon as practicable. The notification shall normally be provided no later than thirty (30) days prior to the first day of school. It is recognized that assignments may be changed due to student enrollment and availability of space. Administrators will directly contact affected employees as soon as practicable.
3. In the event changes in class and/or subject or job classification assignments, building assignments, or room assignments are required, all employees affected will be notified promptly by the current Supervisor and, upon the request of an affected employee; the changes will be reviewed by the Superintendent or the Superintendent's designee. An Association representative may be present at the meeting if requested and arranged by the affected employee. The supervisor's notice of change shall also include notification of the employee's right to Association representation.
4. In order to assure that pupils are taught by employees working within their areas of competence, certified employees will not be assigned, except to meet a verifiable operational need and with the approval of the State Board of Education, outside the scope of their certificates.
5. Schedules of employees who are assigned to more than one school building will be arranged so that no such employee will be required to engage in an unreasonable amount of District travel. Such employees will be notified of any changes in their schedules as soon as practicable. Employees who are assigned to more than one (1) school will be reimbursed for all such travel at the District's established mileage and per diem rate. Mileage reimbursements for an employee assigned to more than one (1) school shall exclude normal round-trip commuting miles between the employee's home and the assigned school or worksite closest thereto.
6. A certified employee who is reassigned involuntarily during the school year will be allowed three days of professional leave in order to facilitate the transition.

## **B. Transfers and Reassignments**

1. Employees who desire a change in grade and/or subject assignment, job classification, or who desire to transfer to another building may file a written statement using the District's designated form of such desire with the Office of Human Resources, with a copy to their current supervisor for requested assignment changes at the current worksite for one year. Such statement will include the grade and/or subject, or job classification, to which

the employee desires to be assigned and the school or schools to which he/she desires to be transferred, in order of preference.

2. If an employee's request for a voluntary transfer has been denied, he/she will be promptly notified and upon request, shall be provided a reasonable opportunity to meet with the Director of Human Resources to discuss such denial and suggestions for consideration in seeking future transfer opportunities. Transfers during the school year shall only be approved under exceptional circumstances.

### **C. District Initiated Transfers**

1. Transfers shall not be initiated arbitrarily, capriciously, or in retaliation against the employee for exercising the employee's legal or contractual rights or as a pretext for reasons, which violate the employee's legal or contractual rights.

2. Reasonable efforts will be made to accomplish needed adjustments through a voluntary process; i.e., qualified volunteers will be considered first and will be transferred or reassigned unless there is an emergency operational need of the District to do otherwise.

3. It is the desire of the parties that as much advance notice as possible be given regarding involuntary transfers. Except in urgent cases, (where a vacant staff position needs filling within five days of its being opened, or of when the District is directed by the New Mexico Public Education Department to create a new position) reasonable prior notice will be given to employees prior to making an involuntary transfer or reassignment. In the case of certified employees, reasonable normally means fifteen (15) days.

4. When considering involuntary transfers the district will consider the qualifications of the employees and their seniority prior to implementing the action. For the purposes of this section, "seniority" shall be defined as the length of an employee's continuous service with the District within the employee's current job classification provided, however, if two (2) or more employees were hired on the same date for the same job classification, and one (1) or more of the affected employees have prior continuous service with the District in another job classification, the affected employee(s) with the continuous District service in another job classification may apply that service when determining seniority status. Time earned prior to a break in service shall not be counted. If two affected employees have the same date of hire, the time a contract is signed shall be determinative.

5. An involuntary transfer or reassignment will only be made after a meeting between the employee involved and the Office of Human Resources, at which time the employee will be notified of the reason therefore. The notice will state that the employee may, at his/her option, have a representative of the Association present at such meeting.

6. An employee being involuntarily transferred or reassigned will not be reduced in rank or have his/her rate of pay reduced other than as a part of disciplinary action for cause as provided in Article 26, Employee Discipline.

7. A certified employee who is transferred or reassigned involuntarily during the school year will be allowed three (3) days of professional leave in order to facilitate the transition.

#### **D. Filling Vacancies**

Sections A, B, and C above will apply to the filling of vacancies which may occur at the beginning of or during a school year, except that minimal disruption to the educational process shall be a major consideration in filling mid-year instructional staff vacancies.

#### **E. Promotions**

1. Promotional positions are defined as bargaining unit positions in a higher salary schedule classification.
2. All vacancies in preexisting and newly created promotional positions will be publicized as provided in Article 10 (Vacancy Postings) of this Agreement. Employees who desire to apply for such vacancies will submit their applications accordingly and shall be considered in accordance with the transfer and reassignment provisions of this Article.
3. The hiring, assignment, transfer and promotion of employees must be fair, must enable selection of the person(s) the District determines best suited to help meet District goals, and should be compatible with the District's affirmative employment needs. This provision shall not apply to the hiring or initial assignments of new employees.
4. The process for hiring, transfer and assignment of employees will entail provisions wherein employees are afforded an opportunity to make their views and desires regarding such matters known to the District; the District takes into consideration such employees' views and desires along with the educational process and District's operational needs; and where employees meet the educational purpose and requirements, selection will be made from the best qualified employee applicant or volunteer or external applicant who best meets the District's educational or operational needs.
5. Such selections will be made based on knowledge, skills, abilities, demonstrated work performance, attendance on the job, and other relevant factors and, where such factors are equal, preference will be given to current employee applicant or volunteers on the basis of employees' seniority.

## **12. REDUCTION IN FORCE**

#### **A. Authority and Discretion**

1. The Board shall exercise its discretionary authority in good faith when determining that a reduction in force (RIF) is necessary. Should it become necessary, a fair and equitable system for determination shall be followed. Conditions justifying a Reduction In Force include but are not limited to those indicated below.
2. The Bernalillo Public School District has the authority to discharge or terminate licensed personnel, including licensed instructors with three or more consecutive years of service. The Board has the jurisdiction to revise the instructional program and decrease personnel in the district at any time during the school year.
3. The District will provide the Association with thirty (30) days notice of an impending layoff. If requested by the Association during this thirty (30) day period, the District will meet with the Association and allow the Association to make recommendations regarding the impending layoff.
4. For information purposes only, employees may refer to the appropriate State Board of Education Regulation.

## **B. Conditions Justifying Reduction in Force (RIF)**

The following conditions may justify a RIF:

- Decline in student enrollment
- Revenue decrease caused by a decrease in student enrollment, loss or reduction of tax revenue, loss or reduction of state, local, or federal funds or inflation that reduces the value of revenue,
- Revision of educational programs
- District involvement in consolidating or redistricting
- Court orders, and
- Legislative mandates

## **C. Reduction in Force Procedure**

1. **Certified Staff:** When conditions necessitate the reduction in force of certified staff, the following procedure shall apply:
  - a. Licensed employees within the licensure/endorsement area or discipline affected will be laid off in the reverse order of seniority. If the layoff occurs within a licensure that does not require an endorsement, the licensed employees within the licensure area shall be laid off in the reverse order of seniority. For the purposes of this article only, seniority shall be defined as the length of continuous District service as a licensed school instructor. Approved unpaid leaves of absence shall not be counted as seniority but shall also not represent a break in service.
  - b. School system-wide service lists prepared by licensure/endorsement area and based on length of service shall be established, and a copy shall be placed in each school. These lists shall include all persons presently employed by the Bernalillo Public Schools (including persons on authorized

leave of absence). Licenses/endorsements obtained subsequent to the date service lists are prepared shall not be included on the lists until all persons on the lists are recalled or forfeit recall rights.

c. Persons described above shall be ranked in order of service and may, in their order of service, displace junior actively employed licensed/endorsed staff. Where there is more than one person entitled to displacement rights in a licensure/endorsement area, they shall be assigned to positions held by licensed staff with less service in that licensure/endorsement area. A person refusing assignment within the person's active assignment shall be discharged and shall not be entitled to recall rights hereafter. When two or more employees are equal in seniority, the superintendent will examine the most current evaluation and rank the employees according to the number of satisfactory ratings.

d. No regular licensed employee shall be discharged or terminated as a result of RIF until all newly hired probationary or temporary employees in the same licensure/endorsement areas have been discharged or terminated. Employees displaced from certified positions shall be eligible to displace certified staff with less service in those endorsement areas.

e. Employees who elect not to exercise displacement rights in their endorsement area(s) (other than the employee's active assignment) shall be discharged and retain recall rights.

**2. Provisions Specific for Classified Employees:** The same procedure for classified employees shall apply with the following modifications:

a. Classified employees within the classification(s) affected will be laid off in the reverse order of seniority. For the purposes of this article only, seniority shall be defined as the length of continuous District service as a classified employee. A classified employee shall be any District position other than a licensed school instructor or administrative position. Approved unpaid leaves of absence shall not be counted as seniority but shall also not represent a break in service.

b. No regular employee shall be discharged or terminated as a result of RIF until all newly hired probationary or temporary employees in the same classification(s) have been discharged or terminated. Persons who have been displaced because of RIF shall be entitled to displace the junior persons in their classification areas. When two or more employees are equal in seniority in classification area, the superintendent will examine the most current evaluations and rank the employees according to the number of satisfactory ratings.

c. Persons will exercise displacement rights only within the classification area in which they are employed at the time; and, except as provided above, a person's displacement rights are limited to their classification area(s). Classified employees who elect not to exercise displacement rights within

their areas shall be discharged and shall not be entitled to recall rights hereafter.

d. During the recall period available vacant positions in the job titles from which employees were laid off will be offered to laid off employees in reverse order of layoff among those who are fully qualified for the position. Failure to accept a position of an equal or greater rate of pay, or failure to respond to a recall notice in accordance with the terms of the notice shall result in an employee's forfeiture of the right to recall.

#### **D. Professional Development**

When, as a result of RIF, employees are to be assigned to endorsement areas in which they have not been recently active, appropriate course work or training will be required except when waived, in writing, by the superintendent or designee.

#### **E. Employee Recall**

1. Upon recall, employees shall receive credit for service accumulated prior to being placed on RIF status.
2. Licensed staff discharged or terminated as a result of RIF shall be ranked in order of service and endorsement. When openings occur, those with the most years of service in endorsement area shall be entitled to the position. If the opening is in the licensed staff members' endorsement areas, but not in their active assignment areas, they may decide whether or not to accept. If licensed staff elect not to accept, their name shall be stricken from the recall list in that endorsement area, but they shall retain recall rights in other endorsement areas. Licensed staff members who have not been recalled within three (3) years from date of discharge shall have no further rights to recall.
3. Classified employees who have been discharged as a result of RIF shall be ranked in order of service and by classification area. Classified employees who exercise displacement rights shall be eligible for recall on the same basis as certified employees. When openings occur, the person on RIF status with the most years of service in the classification area shall be entitled to recall. Classified employees who have not been recalled within three (3) years from date of discharge because of RIF shall have no further right to recall.
4. Employees to be recalled shall be notified by certified mail (return receipt requested) at their last known address on record. If an employee is notified of recall and does not accept, in writing, the offer or re-employment within ten (10) work days of receipt of notice, all rights of recall shall be forfeited. If the notice of recall is undeliverable, the employee shall forfeit recall rights.
5. In order to retain recall rights for the next school year, employees who have been discharged as a result of RIF must notify the Human Resources Department annually, in writing, no later than March 1, of their continued availability for re-

employment. It is the responsibility of the individual to notify the superintendent of any change of address.

6. Full-time employees who have been displaced as a result of RIF may elect to displace the junior, part-time employees in their active assignment areas. Employees discharged as a result of RIF who are eligible and certified for these positions shall be notified and offered available positions in their order of service. A full-time employee electing to accept a position as a part-time certified staff member shall retain the recall rights set out above. A full-time employee foregoing such alternative employment shall retain his or her recall rights.

7. Employees who are discharged or terminated as a result of RIF may continue to be carried in the group insurance program with the employee paying the total premium during the RIF period.

### 13. PERSONNEL LEAVE

#### A. SICK LEAVE

1. Employees other than nine (9) and ten (10) month employees shall be credited with sick leave in the following manner:

- .50 of a day per pay period for twenty-four (24) checks for eleven (11) and twelve (12) month employees.

**NOTE:** The accrual method for accumulating sick leave was requested by the New Mexico Department of Finance and Administration (DFA) to bring the Agreement into compliance with the DFA's requirements.

2. Returning nine (9) and ten (10) month employees shall be credited with sick leave in the following manner:

- August 25th Two (2) sick days accrued
- September 10<sup>th</sup> Four (4) cumulative sick days accrued
- September 25<sup>th</sup> Six (6) cumulative sick days accrued
- October 10th Eight (8) cumulative sick days accrued

3. An employee shall not be permitted to utilize sick leave unless the leave has been accrued. A nine (9) or ten (10) month employee hired after the first day of the employee's contract year shall earn sick leave on a pro-rata basis. The pro-rata sick leave credit shall be calculated by applying the remaining work days as a ratio to the total work days in a contract year. The sick leave shall be credited to the employee in equal installments during the employee's first four (4) paychecks. If the employee returns for the following contract year, the employee will be credited with sick leave in accordance with paragraph 2 above.

4. If an employee terminates employment with the District before the end of the work year, the employee has already exhausted the employee's accumulated sick leave and has used sick leave in excess of the prorated amount set aside for the employee's summer checks, the District shall withhold from final payment to the employee the excess amount paid to the employee. This provision shall not affect employees who have completed their contract years.

5. Accumulated sick leave earned shall be carried forward and credited to the account of the respective employee. Absences exceeding the days of regular sick leave shall be deducted in accordance with the employee's daily rate of pay.

6. Sick Leave is to be used for:

- a. Personal illness or injury that prevents the employee from working:
- b. Illness or injury to a member of the employee's immediate family.
- c. Medical appointments that cannot be scheduled during non-working hours. Except in an emergency, an employee shall provide a minimum of twenty four (24) hours notice of the appointment to the employee's supervisor.

7. The immediate family includes the employee's spouse, child, grandchild, brother, sister, parent, and grandparent.

8. Employees shall be expected to notify their immediate supervisor of their absences as soon as possible, so that a substitute can be assigned, if required.

9. Employees may be required to provide the immediate supervisor or the Office of Human Resources, through the supervisor, with written verification of the employee's illness (or that of a member of the immediate family) from a physician in the following instances:

- a. Absences on sick leave for more than three (3) consecutive days: and
- b. A pattern of sick leave usage which demonstrates to the immediate supervisor that there is possible abuse of sick leave including but not limited to absences every Monday or Friday, an excessive number of absences in one month or absences before or after holidays
- c. Absence on a religious holiday or a Pueblo Feast Day.

10. Prior to requesting verification from a physician in suspected cases of abuse of sick leave the supervisor shall meet with the employee. At this meeting the supervisor shall notify the employee that their usage of sick leave indicates possible

abuse and that if the pattern of usage continues written verification of illness from a physician will be required.

11. In cases of absences lasting longer than ten (10) working days the employee shall submit a written request to the Office of Human Resources for an extended sick leave or leave under the Family Medical Leave Act and will include the probable date of return. The Office of Human Resources will make a decision based on the best available medical information. Before returning to work, a written verification of the employee's physical ability to return to work must be obtained from the physician and submitted to the employee's immediate supervisor. The physician's statement shall be forwarded to the Director of Human Resources.

12. Employees may utilize sick leave for appointments with physicians and dentists. Since these appointments normally will not require an employee to be absent for a full day, the employee shall be permitted to utilize one quarter (1/4) day or one half (1/2) day of sick leave for these purposes.

13. An employee who is found to be in violation of the sick leave provisions set forth herein shall be subject to disciplinary action up to and including discharge or termination of employment provided discipline is administered in accordance with Article 17D of this Agreement.

14. Except as outlined in Article 15, upon separation of employment, there will be no compensation for unused sick leave.

## **B. EMERGENCY LEAVE**

Requests for emergency leave shall be submitted for approval by the immediate supervisor and will be deducted from accrued sick leave. Emergency leave in excess of five (5) days must be approved by the Superintendent or his/her designee. Emergency leave may be granted for the following reasons:

1. A maximum of one (1) leave day may be used by an employee to attend the funeral of a personal friend.
2. Fire, accident, or other catastrophe directly affecting the employee.

## **C. BEREAVEMENT LEAVE**

An employee who suffers a death in the employee's immediate family shall be granted up to three (3) paid leave days. For the purposes of this provision, "immediate family" shall be defined as the employee's spouse, child, step-child, grandchild, son-in-law, daughter-in-law, parent, step-parent, grandparent, father-in-law, mother-in-law, brother, sister, brother-in-law and sister-in-law. The superintendent may grant up to two

(2) additional bereavement days upon request of the employee. Bereavement days shall not be deducted from sick leave and shall not be cumulative.

#### **D. PERSONAL LEAVE**

1. At the beginning of each school term each employee shall be credited with four (4) days of personal leave to be used for an employee's personal business that cannot be scheduled during non-working hours. Unused personal leave days shall be accumulated as sick leave.
2. A personal leave day may be used for any purpose at the discretion of the employee. An employee planning to use a personal leave day or days shall submit a request for leave to the employee's supervisor at least forty-eight (48) hours in advance, except in cases of emergency. The employee shall suffer no loss of pay for such leave and any unused leave days shall be accumulated as sick leave. The employees shall not be required to give reasons for such leave, except that the leave is for "Personal Reasons." Personal leave cannot be taken the day before or after a holiday or during the first or last week of school unless the supervisor is notified five (5) days in advance and the supervisor and Director of Human Resources have approved the leave.
3. Upon separation of employment, there will be no compensation for unused personal leave.

#### **E. PROFESSIONAL LEAVE**

1. The board encourages opportunities for career and professional development for all administrators, teachers and other supportive District staff.
2. The Superintendent or immediate supervisor may authorize professional leave for staff members to attend local, state, regional, and national meetings or conferences without pay deduction. The number of absences allowed shall be determined by the Superintendent and the Board. All leave and expenses approval shall be subject to budget limitations for employing substitutes. Reimbursement for approval travel (including per diem approved in advance) shall be paid by the District.

#### **F. MILITARY LEAVE**

1. All Bernalillo Public School personnel who are actively involved in National Guard duty or training must receive up to fifteen (15) days paid military leave per fiscal year, (N.M. Stat. Ann. 20-4-7).
2. If an employee is called to active duty, the employee will provide notice in a reasonable amount of time to the District and take Leave without Pay. Restoration rights or guarantee of the job refers to the same or similar type of job in terms of responsibility, prestige, and compensation.

3. In the event of war, an employee may be called for active duty up to four (4) or more years. The employee will be guaranteed the employee's job upon return to the District. Upon the employee's return from active duty, the employee has up to 90 days before the employee returns to work. (Title 38, U.S. Code Sect. 20-24).

#### **G. LEAVE FOR LEGAL SUMMONS**

Leave with pay shall be granted an employee to honor a legal summons to appear in court or before a government agency for jury duty, provided that the appearance cannot be deferred to a non-working day. This leave shall not be deducted from other types of leave. Leave with pay shall also be approved for an employee asked to serve as an election officer. Witness fees in excess of mileage and per diem are to be returned to the District. Election officer pay earned during the employee's regular work day shall also be returned to the District.

#### **H. ANNUAL LEAVE**

All district employees on a 12-month contract shall earn annual leave at a rate of .833 days per month for a total of 10 days a year. Twelve month district employees, upon receipt of a second consecutive 12-month contract, shall earn 1.25 days per month or 15 days a year. Employees shall not accumulate more than fifteen (15) days annual leave. An employee may use annual leave subject to the approval of the supervisor.

#### **I. HOLIDAY LEAVE**

Holidays which shall be observed shall be indicated on the school calendar. All employees shall be given a copy of the calendar and shall be entitled to observe the designated holidays.

#### **J. UNPAID LEAVE**

1. The Superintendent shall consider requests for unpaid leave of absence from any district employee who has completed five consecutive years of full-time service with Bernalillo Public Schools. The length of time shall be limited to one year, shall be without pay, and the following conditions will apply:

- a. Requests for unpaid leave must be received by the superintendent in writing, six months prior to the beginning of the leave.
- b. Unpaid leave will be limited to five (5) employees per contract year.
- c. Upon return from unpaid leave the employee retains all seniority earned prior to taking leave for placement on the salary schedule. All leave benefits to which an employee was entitled at the time the leave commenced will be restored upon return.
- d. The employee may continue to participate in all medical benefits as part of the district group but the employee will bear all costs.

- e. The employee will provide documentation of full time attendance at an accredited post-secondary institution.
- f. The employee will provide evidence of participation in a planned program at an accredited post-secondary institution and will demonstrate how it will benefit the District and further the employee's career goals within the District.
- g. An employee with at least five (5) consecutive years of experience with the District shall be eligible to apply for an unpaid leave of absence under this section for a reason (s) related to personal or family exigencies that may require the employee's attention. Consistent with paragraph (a) above, the Superintendent shall have the sole discretion for determining whether or not the leave shall be granted.
- h. Individuals hired to fill the vacancy created by the unpaid leave, will be hired only for the period of the unpaid leave. To retain the right to the position the employee out on unpaid leave will notify the district in writing of her/her intent to return thirty (30) days prior to the end of the school year.

**K. EXTENDED MEDICAL LEAVE**

The Superintendent shall consider requests for extended medical leave that are in excess of the Family Medical Leave Act requirements from district employees that have completed three consecutive years of employment with the district. The district may request verification from the employee's physician. The length of time shall be limited to one year and shall be without pay after the employee has used all sick leave benefits. Individuals hired to fill the vacancy created by the medical leave will be hired only for the period of the medical leave. Upon return the district may require documentation that the employee has been released from medical care.

- 1. Pregnancy/Child Rearing Leave: The Superintendent shall consider requests for pregnancy leave that are in excess of the Family Medical Leave Act requirements for district employees that have completed three consecutive years of work with the district. The length of the leave will be for one year and will be without pay after the employee has exhausted sick leave benefits. The employee may continue to participate in all medical benefits as part of the district group, but the employee will assume all costs. Individuals hired to fill the vacancy created by the pregnancy leave will be hired only for the period of pregnancy leave.
- 2. Family Medical Leave: Family medical leave will be granted to eligible employees in accordance with the Family Medical Leave Act currently in law.

**14. SICK LEAVE BANK**

A. The District and the Association recognize the need for an available pool of sick leave days upon which eligible employees having experienced unusual or catastrophic personal illness or injuries may draw.

B. Employees with at least twelve (12) consecutive months of employment with the district may enroll in the sick leave bank each fiscal year by voluntarily contributing one (1) day of accrued sick leave to the bank by October 1<sup>st</sup> of the current fiscal year, to be deducted on the first payroll in October. All days donated are irretrievable. Days contributed by employees who leave the District shall remain in the bank.

C. The Sick Leave Bank Committee shall consist of four members: The Director of Human Resources, one member appointed by the Superintendent and two members appointed by the Association to include one certified employee and one classified employee. The first charge of the committee will be to develop criteria for approving a participating employee's application for use of the Sick Leave Bank, the reassessment procedure and timelines within which reassessment will occur, and determining the minimum balance required for the Sick Leave Bank to operate.

1. To qualify for Sick Leave Bank assistance, an employee must require extended hospitalization or home confinement due to a catastrophic illness or disability.
  - a. Catastrophic illness is defined as an illness not consistent with ordinary illness including, but not limited to cancer, heart attack, stroke or major surgery.
  - b. Disability is defined as an illness, accident or injury disabling an individual from employment.
2. If the Sick Leave Bank balance is 1800 or higher at the start of the school year, only new members of the Sick Leave Bank will be required to contribute a day of sick leave. If it is below 1800 hours, all members will be required to contribute a day.
3. If the Sick Leave Bank drops to below 500 hours during the year, each member of the Sick Leave Bank will be required to contribute an additional day. If a Sick Leave Bank member does not have a day to contribute, the member will retain sick leave bank membership and reimburse the sick leave day as soon as one is accrued.

D. Upon exhaustion of all accumulated sick leave, a member of the Bank who has experienced unusual or catastrophic illness or injury to self or an immediate family member, may apply to the Committee for assistance from the Bank. The Committee initially may award up to ten (10) days to an applicant after the applicant has exhausted all accumulated sick leave. If the illness or disability persists, the Committee may, upon the request of the applicant, award up to ten (10) additional leave days from the Bank. Employees shall not be awarded more than twenty (20) days from the Bank during a given year unless an extended leave is necessary due to a grave illness of the employee or a member of the employee's immediate family, or the death of a member of one of the employee's immediate family, or the death of a member of one of the employee's immediate family

members, which includes spouse, child or parents. The maximum allowable days within a given year for any reason(s) shall be thirty (30) days.

E. Applications to the Committee shall be in writing and must include a physician's statement and the anticipated date of return to work.

## **15. SICK LEAVE INCENTIVES**

A. A sick leave incentive program will be established to:

1. Improve employee attendance for the purpose of ensuring continuity in the educational program.
2. Continue to improve morale.

B. The program will compensate employees taking three (3) or less days from sick, personal, emergency leave from the beginning to end of the contract year and each year thereafter, a one-time payment in the sum of \$50.00 as determined by the Board of Education will be distributed on orientation day each year.

C. Subject to the conditions set forth below, an employee who retires from the District shall be compensated for all unused paid sick and personal leave up to a maximum of forty (40) days. The unused days shall be compensated at the rate of one hundred dollars (\$100.00) per day.

- In order to be eligible for this benefit, an employee shall not use any paid sick days during the employee's last two (2) months of employment with the District. The employee shall also be required to submit an irrevocable resignation and notice of retirement. For the purposes set forth in this provision, "retirement" shall mean the employee has submitted an irrevocable letter of intent to retire to the Educational Retirement Board (ERB) and an irrevocable letter of resignation to the District. The employee will submit copies of these letters to the District when the employee applies for this benefit.

## **16. EMPLOYEE EVALUATIONS**

When technical errors by the supervisor are present in a performance evaluation, the overall performance of the individual will be the determining factor. Such errors shall not be used as a basis to overturn a termination that should otherwise be sustained. Repetitive technical errors by a supervisor will be subject to supervisory review by the appropriate level of the District Management. Consistent with District practice, this provision shall not be utilized in a manner that justifies practices that substantively violate the evaluation procedure's basic principles or the foundation of the procedure itself.

The Association and the District Administration shall review the new Public Education Department employee evaluation procedure to determine whether or not the evaluation language currently set forth in Article 16 needs to be modified in any manner. The parties shall continue meet and confer discussions related to licensed school personnel evaluation procedures, including the meet and confer discussions related to the District's

optional measures with an emphasis on attendance, during the term of this Agreement. If either party requests it, the parties will enter into negotiations on the effect or impact of the evaluation system. If the discussions result in agreed upon proposed modifications to this Agreement, the parties will execute a memorandum of understanding incorporating these modifications. These commitments shall not prevent the District from exercising any discretion that it currently maintains.

#### **A. Licensed Instructional Personnel**

Licensed instructional personnel will be evaluated in accordance with the procedures set forth for "Professional Staff" in the District's Performance Evaluation Plan as approved by the State Department of Education regulations. Any modifications to such Plan shall be in conformance with the State Department of Education regulations.

#### **B. Classified Personnel**

Classified employees shall be evaluated annually; however, employees may be evaluated at any time it is felt necessary by the immediate supervisor. A minimum of one (1) written evaluation report per year must be filed with the Office of Human Resources. Additional reports may be submitted at any time.

#### **C. General Provisions/ Procedures**

Employees to be evaluated during a particular year shall be furnished reasonable notice and a copy of the evaluation procedures during the year in which the evaluation is to take place. Employee evaluations will be governed by, but not limited to, the following general provisions and procedures:

1. Reasonable and appropriate professional techniques will be utilized in conducting interviews and conferences during the evaluation process.
2. Post evaluation conference(s) will be held with the employee prior to any evaluation being submitted to the district office and placed in the employee's file. No employee will be required to sign a blank or incomplete evaluation form.
3. Conferencing and data collection will be components in the cycle of employee supervision and evaluation. These components provide the opportunity to facilitate professional development and growth and to address alleged performance deficiencies and allegations as they occur.
4. The Professional Development Plan (PDP) will be developed through a collaborative effort with input from both the employee and the evaluator.

5. Evaluation or status reports may not be placed in an employee's official personnel file unless that employee has received a copy and has had an opportunity to discuss the contents with his/her immediate supervisor(s).
6. Employees in disagreement with the contents of their performance review or evaluation report may submit a written rebuttal which shall be made a permanent part of the evaluation.

#### **D. Complaints**

Any complaint regarding an employee made to the employee's immediate supervisor or other District representative by any parent, student or other identified person will be called to the attention of the employee with reasonable prior notice before its use in evaluating the employee. The employee will be given an opportunity to respond to and/or rebut such complaint. Nothing in this provision shall be construed to prevent the District from first reporting such complaint to a state or local agency having jurisdiction for investigating such complaints and following the instructions set forth by such agency or first investigating the complaint internally.

### **17. EMPLOYEE DISCIPLINE**

A. No employee with three (3) or more years of continuous service with the District will be disciplined, reprimanded, reduced in rank (demoted), suspended without pay, terminated or discharged without just cause. Terminations and discharges of employees will be handled in accordance with applicable New Mexico law. Other disciplinary actions of employees shall be subject to Article 3 (Grievance Procedure) of this agreement. Notwithstanding the provisions set forth in this article, an administrator may place an employee on immediate administrative leave in emergency situations to ensure the physical and emotional safety of students and co-workers and to maintain order in the work place pending an investigation. Within forty-eight (48) hours after an employee is placed on administrative leave, the District will inform the Association of its decision to place the employee on administrative leave.

B. Whenever an employee is required to appear before an administrator or supervisor to respond to charges which may result in discipline, the employee will be given prior written notice of the reasons for such appearance, and will be entitled to have a representative of the Association present and represent the employee during such appearance. The District's notice to appear shall include a statement informing the employee that the employee is entitled to Association representation. An employee shall be provided a reasonable amount of time to enlist an Association representative to accompany the employee at the meeting. However, this right shall not be interpreted or implemented in a manner that prevents the District from implementing the discipline process if the health or safety of employees or students is at risk.

C. Normally, any criticism by an administrator or supervisor of an employee and/or the employee's performance or any criticism of an administrator or supervisor by an employee will be made in confidence and not in the presence of students, parents, co-workers or members of the public. The purpose of this provision is not to curtail or stifle discussion of the ideas of any individual, rather it is to ensure that such discussions focus on the ideas and issues of an individual not his/her personality or character.

D. The District shall follow the general principles of progressive discipline when the District imposes discipline on an employee. This commitment, however, shall not be interpreted in a manner that requires a specific discipline for a particular infraction. In the case of an employee infraction or behavior that is particularly egregious, the District may impose a discipline that is appropriate or warranted by the employee's infraction or behavior and not consistent with the progressive discipline procedures. Furthermore, neither this provision nor any other provision of this Agreement shall be interpreted in a manner that provides or guarantees a probationary employee with any reasonable expectation of continued employment.

## **18. PERSONNEL FILES**

A. An employee's official personnel file shall be maintained at the District's Personnel office.

B. An employee will have the right, upon request, to review the contents of his/her personnel file, except for pre-employment references or references directly related to internal promotions, after scheduling an appointment for such purpose with the District's Personnel office.

C. The employee may be accompanied by an individual while reviewing the employee's file. A designated District official may be present during the file review.

D. The District will honor reasonable requests for, and the employee will receive, within a reasonable time, a copy of any accessible document(s) in the official file for the employee. The employee may be required to assume a reasonable cost for the copies which shall equal the per copy costs charged to others by the District.

E. No material derogatory to an employee's conduct, performance or character will be placed in the employee's personnel file unless the employee has had an opportunity to review the material. The employee will acknowledge that he/she has had the opportunity to review such material by affixing the employee's signature to the copy to be filed, with the express understanding that such signature in no way indicates agreement with the contents thereof. The employee will also have the right to submit a written response to such material and have it attached to the file copy.

F. Each supervisor may maintain a separate working file of contemporaneous notes and related matters for each employee; provided, however, that such file shall not be used as

the sole basis for disciplinary action(s). Further, the supervisor shall be responsible for maintaining the security and confidentiality of the contents of such files and shall take appropriate steps to ensure that access is restricted to properly authorized representatives of the District.

## **19. ALCOHOL AND CONTROLLED SUBSTANCE ABUSE**

A. The parties' concern related to alcoholism and/or controlled substance abuse is limited to job-related problems such as poor attendance and/or unsatisfactory performance on the job.

B. The District agrees that any employee with an alcohol or controlled substance abuse problem who through self-referral to the District's Employee Assistance Program seeks diagnosis or treatment will not jeopardize the employee's job rights or job security and that such problems will be handled in a confidential manner, provided that this provision shall not be used to avoid pending or justifiable disciplinary actions for cause.

C. When a supervisor or an administrator observes an employee experiencing difficulties in maintaining the employee's performance, and those difficulties, in the opinion of the supervisor or administrator, are due to alcohol and/or controlled substance abuse, the supervisor will discuss the apparent difficulties with the employee at a specially scheduled confidential meeting. By mutual agreement, the employee will be afforded the right to have appropriate Association representative(s) present at such meeting. In such instances, the Association representative(s) will be notified in advance that such a meeting is scheduled.

D. All reports of actual or alleged alcohol and/or controlled substance abuse will be promptly reported to the employee.

E. The District may administer random alcohol and/or controlled substance testing for those employees holding safety sensitive positions. When the District has probable cause to believe that an employee is under the influence of a controlled substance and/or alcohol, a test may be ordered. For the purposes of this section, "probable cause" shall be defined as observable and articulable behavior exhibited by an employee which would lead a reasonable adult to conclude that the employee is under the influence of a controlled substance and/or alcohol.

F. All transportation employees are considered safety-sensitive positions.

G. The properties of the District are a non-smoking environment. Smoking on school property is strictly forbidden.

## **20. PERSONAL AND ACADEMIC FREEDOM**

A. Teachers shall use their professional judgment to present students with an open study and examination of all academic issues consistent with the curricular and instructional competency requirements of the State Board of Education and the District Board of Education. When a concern has been identified with a teacher's approach to the curriculum, the employee shall meet with the principal in a collaborative effort. With mutual agreement between the teacher and the principal, consistent with District Board of Education policy, the teacher may resume his/her approach to the curriculum. Without the approval of the principal the teacher shall desist immediately.

B. Retention and promotion recommendations by teachers will be made in accordance with District Policy.

## **21. PROTECTION OF EMPLOYEES, STUDENTS, AND PROPERTY**

A. Sexual harassment shall not be tolerated in the work environment. An employee shall have the right to file a sexual harassment complaint without fear of reprisal. Sexual harassment complaints shall be investigated. The parties also agree that the District should attempt to provide a work environment in which employees are not subject to repeated unwarranted conduct of a threatening or harassing nature.

B. The parties recognize the need and obligation to provide safe and healthy working conditions. The District will provide working conditions in conformance with state and federal laws and regulations, including but not limited to enforcement of all laws, regulations or Board policies regarding weapons in the schools.

C. An employee shall be the initial source of discipline of all students under the supervision of the employee. Employees shall have the right to know if their classes include students with histories of violent behavior. An employee shall take whatever action is necessary and permitted under policy and law to properly discipline a disruptive student prior to referring the student and the problem to the administration. An employee may refer to the administration a student whose behavior prevents the employee from providing instruction and/or threatens the safety of the employee(s) or student(s). Student discipline shall be applied in accordance with school policy, district policy, State Board of Education regulations, and state or federal law. An employee who is referred to the District's Workers Compensation agent during the employee's work day for medical assistance resulting from an injury inflicted on the employee by a student shall not have the time spent with the agent for that day deducted from the employee's paid sick or personal leave. Any leave taken after this initial visit shall be compensated in accordance with the Workers Compensation Act.

D. An employee who processes a student discipline referral to the employee's supervisor shall receive a disposition response from the supervisor. An e-mail or verbal notification to the employee within one (1) week after resolution by the supervisor shall be sufficient.

E. Physical force may be used by an employee to protect the employee or another person from possible injury, to protect property from serious damage, to quell a disturbance threatening physical injury to others, to obtain possession of weapons or other dangerous objects upon the person or within the control of a student, or, in an extraordinary case of breach of discipline, to restrain a disruptive student, provided the force used is reasonable under the circumstances. Employees will immediately report all such instances, as well as any cases of assault on themselves in connection with their employment, to their principal or immediate supervisor in writing, giving in detail the circumstances thereof.

1. The District shall prepare restraint and seclusion policies in compliance with state and national laws or regulations that require the preparation of such policies. These policies will be shared with all employees. An employee(s) identified by the District to apply student restraint and/or seclusion shall receive training as identified by the District. This employee(s) shall be identified to employees who may need the restraint and/or seclusion services.

2. This report will be forwarded to the Superintendent. The District and the superintendent will comply with any request from such employee for information in their possession relating to the incident or the persons involved to the extent such information is not protected by law and will otherwise cooperate with the employee in the event of a civil or criminal proceeding.

F. When, in the judgment of an employee, a violent or disruptive student who is seriously impairing the instructional program to the detriment of other students or is a safety threat is readmitted to the employee's classroom or supervision, the employee may appeal such readmission or assignment of the student through the chain of command to the Superintendent.

G. An employee receiving a student in his or her classroom that is being reinstated following expulsion for a violation of Board policy shall be advised of the expulsion and any conditions governing the reinstatement and/or continued attendance. An employee may request to be relieved of responsibility for supervision of a student who has been disciplined by the District for assault, battery or physical confrontations against that employee. The request for an alternative setting for the student will be considered, but this provision shall not be interpreted to require the District to find one.

H. The District, through its statutory obligations and risk management coverage through the New Mexico Public Schools Insurance Authority, agrees to protect employees from any claim, demand, suit, criminal prosecution or judgment by reason of any legal act or

failure to act by such employee within or without the school building, provided such employee, at the time of the act or omission complained of, was acting within the course and scope of the employee's employment or under the direction of the District.

I. In work sites where the District uses key cards for access, employees will have key cards for main building access in accordance with District policies and procedures. Site administrators will make reasonable accommodations to allow employees access to site buildings during non-work hours. Each employee assigned outside the main building will have access to the nearest building. Teachers shall be responsible for the security of the keys.

## **22. EMPLOYEE FACILITIES**

Each school shall maintain and provide the following for the employees:

1. Free parking facilities which are identified for employee use only.
2. A desk, chair, and lockable storage for the exclusive use of the licensed instructors.
3. Special clothing, equipment and other safety devices as required by OSHA and the New Mexico Occupational Health and Safety Act Regulation 29 CFR 1190-1200 in order for the employee to perform assigned duties in a safe manner.

## **23. INSTRUCTIONAL MATERIALS AND SUPPLIES**

The District will allocate sufficient funds as determined by the District to provide for the purchase and/or replacement of textbooks, library books, instructional materials, supplies and equipment to enable employees to fulfill their responsibilities both during the regular school year and in summer school programs.

## **24. EMPLOYMENT AND COMPENSATION**

A. The salary schedule structure for 2021-2022 is applicable to all certified and classified employees, whether new or returning to include:

1. TEACHER SALARY SCHEDULE LEVEL 1: Each cell on the salary schedule will be increased in a manner that provides each returning employee an \$8,000 increase during the 2022-2023 school year.
2. TEACHER SALARY SCHEDULE LEVELS 2 AND 3: Each cell on each salary schedule will be increased in a manner that provides each returning employee a \$10,000 increase during the 2022-2023 school year.
3. THERAPIST SALARY SCHEDULE: All therapists will be placed on the teacher salary schedule corresponding to their licensure level with the above outlined increases.

4. COORDINATOR SALARY SCHEDULE: Each cell on each salary schedule will be increased in a manner that provides each returning employee a \$10,000 increase during the 2022-2023 school year.

5. CLASSIFIED STAFF SALARY SCHEDULES: Each cell on each salary schedule will be increased in a manner that provides each returning employee a \$2.50 per hour increase during the 2022-2023 school year. This includes the salary schedules for the following positions: Campus Security, Crossing Guard, District Student Data Analyst, EA & Health Assistant, Food Service, Food Service Office Staff, Gear Up, Groundskeeper, Liaison, Maintenance Custodian, Maintenance Supervisor/Specialist, Nurse, Office Personnel, Receptionist, Registrar, Student Services Coordinator, Technology, Transportation Bus Driver, Transportation Mechanic, Transportation Supervisor, and Warehouse.

B. All employees on steps of the 2021-2022 salary schedule (with 91 days or more at that step) will move from their current salary step to the next step on the 2021-2022 schedule. Employees may qualify for movement horizontally on the salary schedule if their credit hours, degree status, or level movement meets requirements for change.

C. If the PED mandates a plan during the 2021-2022 school year that includes additional compensation for employees and falls outside the compensation already outlined in this Agreement, the compensation shall be subject to bargaining.

D. Credit up to sixteen years (17<sup>th</sup> step) of a salary line on the employee salary schedule for certified employees except licensed employees on the Tier 3 Salary Schedule with an MA or higher degree and up to the ten years (11<sup>th</sup> step) for a BA degree and for classified employees will be given for previous experience upon initial employment. Licensed employees on the Tier 3 Salary Schedule shall be credited with unlimited previous experience upon initial employment. The aforementioned credit will be given to any present employee who has not heretofore received it.

E. Those employees whose rate of pay is at the top step or above the existing salary schedule shall receive an amount that is negotiated by the parties.

F. Shift Differential: A custodian who is required to work a shift that exceeds 7:00 pm shall be compensated an additional forty cents (\$.40) beyond the employee's regular hourly rate of pay for each hour worked beyond 7:00 pm.

G. Employees will be compensated for additional training in accordance with the approved salary schedules in Appendix D.

H. A teacher hired to work an assignment beyond the regular work day who is not receiving a stipend for this assignment shall be compensated at the rate of twenty-five (\$25.00) per hour for each hour of assigned work. Classified employees assigned these responsibilities shall be compensated at the rate of twelve dollars and fifty cents (\$12.50) per hour for each hour of assigned work.

I. Maintenance employees who possess an occupational or skills license shall be reimbursed for said license fees by the district upon proof of payment for the license issuance or renewal. To be eligible for such reimbursement said employees must be required to utilize such skill in the course and scope of their employment. Such license fees do not include the cost of a driver's license. All additional certificates for increments must have 272 training contact hours or 17 university credit hours. All licenses must be awarded by the State of New Mexico Construction Industries Division.

J. Part-time employees shall be compensated on a pro-rata basis for the portion of the normal workday they work. Compensation shall be based on the appropriate step on the Teacher Salary Schedule as if the teacher were employed full time.

K. The District's NM Pre-K Program is funded by grants from outside sources. The grants are contingent on the district complying with provisions that may affect employee terms and conditions of employment. These provisions may require deviations from specific provisions in this Agreement. Provided these deviations are shared with the affected employee and the employee agrees in writing to the deviations, the deviations shall not be subject to challenge under this Agreement's Grievance Procedure. The deviations document shall be shared with the Association.

L. **Pay Periods**

1. Employees will be paid in equal semi-monthly installments. Certified instructors and other classified staff who have elected to receive 24 installments shall receive their summer paychecks as follows: three (3) checks on the last day of school; two (2) checks within one week after the state equalization payment is made to the District, but no later than June 25.

2. If an employee leaves employment prior to the end of a school year, the employee shall be paid the total amount of the employee's total salary which is proportionate to the amount of the year which the employee has worked.

M. **Pay Stipends:**

1. The District and the Association shall meet and confer on the District's anticipated adoption of performance standards for the approval of stipends, and to examine with the Association the current list of stipends at District sites, identify stipends that need to be deleted from the list, or added to the list, and negotiate appropriate stipend values throughout the list. Stipends paid beyond the employee's regular salary or hourly rate shall be identified in Appendix A. Each school will be allocated a specific amount to be spent on stipends. Principals will determine which stipends will be paid. An employee will not receive a stipend for additional service unless the stipend is identified in Appendix A and the employee has

received written approval for the program and stipend prior to the commencement of services.

Employees shall be paid salary increments for additional services described in Appendix A of this Agreement.

2. Incremental pay shall be added to an employee's annual salary and paid as one (1) lump sum at the end of the coaching season for coaches and April 30<sup>th</sup> for other increments, or, at the employee's option, included in the regular paycheck and paid in two (2) installments in November and April.

### 3. TESOL and Bilingual Increments

a. A teacher or related service provider who possesses a current TESOL endorsement and provides TESOL services in a program approved by the District and the NMPED shall receive a \$1,000.00 annual stipend.

b. A teacher who possesses a current Bilingual endorsement and provides bilingual services in a program approved by the District and the NMPED shall receive a \$2,500.00 stipend.

c. TESOL and Bilingual teachers (and other licensed employees) who possess both a TESOL and Bilingual endorsement shall qualify for the Bilingual and the TESOL stipend, provided they are providing bilingual services in a program approved by the District and the NMPED.

d. Endorsement: Teachers (and other licensed employees) must possess a current endorsement (Teachers on waiver do qualify for the stipend). Instructional Coaches, Librarians, SLPs and other licensed employees who currently hold a Bilingual or TESOL credential shall also receive the same stipends as teachers when they also qualify under the other criteria herein.

4. If the District is awarded a grant that requires the establishment of an activity that warrants the payment of a stipend and the stipend is not listed in Appendix A, the District shall notify the Association and contact the Association on the appropriate stipend value.

5. Transportation Increment: Each staff member who works full-time at Santo Domingo School or Cochiti School and lives more than 20 miles from their worksite shall receive an annual increment of two thousand dollars (\$2,000). Home address will be verified by staff member's home utility bill.

### 6. Deadline

a. Employees wishing to be considered for a stipend must have their current endorsement on file with the Department of Human Resources and the

school within twenty (20) workdays of providing services. To be eligible for the entire stipend payment, all endorsements must be approved by the Public Education Department no later than September 15th. Endorsements issued and/or the commencement of the provision of services after that date will be compensated on a prorated basis.

b. Head Custodians who have supervisory responsibility shall receive an annual stipend of one thousand five hundred dollars (\$1,500.00), which will be paid in equal installments with their regular pay. Head custodians who do not supervise shall receive a stipend of \$500.00 paid in the same fashion. Notwithstanding the above, those employees classified as head custodians who were receiving the one thousand five hundred dollars (\$1,500.00) increment on June 30, 2017 but were not supervising will continue to receive this stipend for as long as they are employed as head custodians at their current locations. Thereafter, all employees hired or re-classified as head custodians shall only receive the one thousand five hundred dollars (\$1,500.00) increment if they are assigned supervisory duties.

#### **N. Direct Deposit**

1. An employee may elect to have, at the employee's option, the amount of the employee's paycheck transmitted via a bank of the District's choice, to an account(s) in a commercial bank(s) or other financial institution(s) designated by the employee that accepts direct deposit. This procedure will be made available to each employee each month with adequate opportunity for enrollment, changes or cancellation.

2. The direct deposit of employees' pay will be completed at least by the regular paycheck distribution dates, and check stubs will be provided on the regular paycheck distribution dates to each employee selecting this method of payment. In cases when direct deposit cannot be offered, due to circumstances beyond the control of the District, employees will receive their regular paychecks.

3. In the event the District needs to change the procedures identified in F and G above, reasonable notice and an opportunity for consultation shall be provided to the Association prior to making such changes.

#### **O. Coaches' Salary Schedule:**

The coaches' salary schedule structure shall be equalized to be in compliance with Federal Title IX guidelines.

## **25. INSURANCE**

A. For the duration of this Agreement, the District agrees to provide to eligible employees with group medical, dental, and vision insurance through, and as determined by, the New Mexico Public Schools Insurance Authority (NMPSIA). For those employees who elect to participate in the approved insurance plan(s), the District agrees to continue to contribute that percentage of the premium required by state law.

B. Further, the District agrees, for the duration of this Agreement, to continue to provide employees access to long-term and short-term disability and life insurance benefits available through NMPSIA, including the \$25,000 - \$50,000 non-contributory life insurance coverage.

C. Participants in these insurance programs will have their premiums deducted through payroll deductions and will be provided a copy of the plan information as provided by NMPSIA.

D. For staff with an annual salary of \$30,000 or less, the Employee will be responsible for 20% of the monthly premium cost and the District will be responsible for 80% of the monthly premium cost.

E. The District shall continue to offer employees open enrollment periods as often as allowed by NMPSIA. Employees will be provided reasonable notice prior to any such open enrollment periods.

F. If an employee experiences any change in employment or marital status which creates a need for the employee to enroll or change enrollment in any of the approved plans, the employee may do so only if permitted by applicable law, NMPSIA regulations or provisions of the contract between NMPSIA and the respective insurance carrier.

G. The District will continue to provide professional liability and Workers Compensation coverage for employees in accordance with state law and NMPSIA regulations.

H. Subject to applicable laws and regulations, the District will continue to provide employees access to the Internal Revenue Code Section 125 "Cafeteria Plan" benefits offered at the inception of this Agreement. Any changes to said offerings shall be reviewed by the parties which, in turn, will make recommendations to the Superintendent and Board for approval.

## **26. EFFECT OF AGREEMENT**

A. The District and the Association agree that there will be no discrimination in the training, assignment, promotion, transfer or discipline of employees or in the application or administration of this Agreement or any other rule, regulation, or policy relating to the terms and conditions of employment on the basis of race, creed, color, religion, national origin or sex.

B. Unless otherwise indicated, the term "Superintendent" when used in this Agreement is understood to mean the Superintendent or an Assistant Superintendent or another Administrator designated by the Superintendent, and the term "Association" is understood to mean the Association or its designated representative or representatives.

C. If any provision of this Agreement or any application thereof to any employee or group of employees is held to be contrary to law, then such provision or application will be deemed valid only to the extent permitted by law, but all other provisions or applications will continue in full force and effect. The parties will meet not later than ten (10) days after a request by either party for the purpose of renegotiating the provision or provisions affected.

D. This Agreement constitutes the full and complete understandings between the District and the Association and it supersedes any prior agreements, rules and practices concerning terms and conditions of employment for bargaining unit employees. If any District policy, regulation or directive is in specific conflict with any provision of this Agreement, this Agreement will control with full force and effect, whether or not the District amends said policy, regulation or directive. The District will not implement any change that is in specific conflict with this Agreement.

E. The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to all proper subjects of collective bargaining and that all such subjects have been discussed and negotiated upon and the agreements contained in this Agreement were arrived at after the free exercise of such rights and opportunities. The District and the Association, for the life of this Agreement, each voluntarily and unqualifiedly waives the right to negotiate any provision contained in this Agreement and, except as otherwise provided in this Agreement, each agrees that the other shall not be obligated to bargain collectively with respect to any subject matter not specifically referred to or covered in this Agreement, even though such subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement.

F. Unless otherwise specifically stated herein, the provisions, conditions and requirements of this Agreement shall apply to all employees in the bargaining unit. The employees will comply with the provisions of this Agreement, and with applicable District policies, rules, regulations, and/or officially sanctioned practices, provided that said policies, rules, regulations, and/or officially sanctioned practices do not specifically violate the provisions of this Agreement or applicable laws. Employees and the Association shall be entitled to all the rights and benefits specifically delineated in this Agreement. There shall be no implied rights beyond those specifically delineated, and the Association shall be the exclusive representative for those rights.

G. Nothing in this Agreement shall be construed to prohibit the District from exercising its management rights and prerogatives except those specifically waived by this Agreement; provided that the District may not take any actions that are in direct violation of the provisions of this Agreement.

H. This Agreement may not be modified in whole or in part by either party except by an instrument in writing duly executed by both parties.

I. The District will post the new Collective Bargaining Agreement on the District's web site.

J. Any notice to be given by one party to the other under this Agreement will be given in writing. If given by the District, said notice will be sent to the Association, located at 2007 Botolph Road, Santa Fe 87505; and if given by the Association, said notice will be sent to the District, located at 560 Camino del Pueblo, Bernalillo, NM 87004. Either party may, by like written notice, change the address at which notice to it may be given.

## **27. NO STRIKE AND NO LOCKOUT**

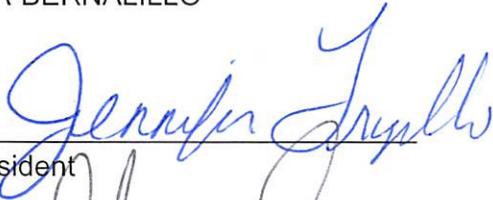
The Association and the employees in the bargaining unit shall not engage in, cause, instigate, encourage or support an employee strike, and the District shall not cause, instigate or engage in an employee lockout for the duration of this Agreement.

## **28. DURATION AND RE-OPENERS**

This Agreement will be effective as of the date of signature by the Association President and the Bernalillo School Board President and will remain in full force and effect until August 24, 2024 except as otherwise provided below. The term of this Agreement may be extended by mutual agreement of the parties. Either party may bring three (3) re-openers per year as reflected in Article 2, Bargaining Procedure. Salaries and benefits shall be negotiated in the spring of every year during the duration of the Collective Bargaining Agreement.

IN WITNESS WHEREOF, the parties hereto affix the signatures of their respective officers and representatives.

NEA-BERNALILLO

By  Date 5/12/22  
President

By  Date 3/12/22  
Vice-President

BERNALILLO PUBLIC SCHOOLS  
By   
President of the Board of Education

Date 5-2-22

By   
Superintendent of Schools

Date 5.2.22

## APPENDIX A: INCREMENT SCHEDULE

|  |                |
|--|----------------|
| Art Club (BHS) .....                                 | 700            |
| Band (BHS) .....                                     | 3,000          |
| Band/Elementary Mid.....                             | 1,000          |
| Bilingual Coordinator .....                          | 800            |
| Business Professionals of America .....              | 700            |
| Choir.....   | 1000           |
| District Athletic Trainer .....                      | 9,000          |
| District Newsletter .....                            | 1,500          |
| Drama Club Thespians (BHS).....                      | 3,000          |
| French Club (BHS) .....                              | 700            |
| Freshman Class Sponsor .....                         | 700            |
| Future Farmers of America (BHS) .....                | 3,000          |
| National Honors Society .....                        | 500            |
| Junior Class Sponsor .....                           | 900            |
| Lead Nurse .....                                     | 2,500          |
| Leadership Team.....                                 | 800 Per Person |
| Mariachi .....                                       | 1,000          |
| MESA.....  | 1,000          |
| Native America Drum Group.....                       | 500            |
| Native American Leadership.....                      | 500            |
| SAT Chair (Placitas) .....                           | 1,000          |
| SAT Chair (Algodones, Bernalillo Elementary) .....   | 1,500          |
| SAT Chair (SD Elem, Cochiti Elem, and Carroll) ..... | 2,000          |
| SAT Chair (Secondary) .....                          | 600            |
| Senior Class Sponsor .....                           | 1,000          |
| Ski Club .....                                       | 500            |
| Sophomore Class Sponsor.....                         | 800            |
| Student Council (Mid) .....                          | 400            |
| Student Council.....                                 | (BHS)700       |
| Translator District .....                            | 5,000          |
| Transportation Stipend (as defined in this CBA) .... | 2,000          |
| Yearbook (BHS) .....                                 | 700            |
| Yearbook (Mid) .....                                 | 600            |
| Yearbook (Elementary) .....                          | 500            |

**APPENDIX B: LEVEL 1 GRIEVANCE FORM**

**LEVEL I GRIEVANCE**

TO: \_\_\_\_\_  
Supervisor Work Location

FROM: \_\_\_\_\_  
Grievant/Employee Work Location

An informal discussion was \_\_\_ was not \_\_\_ held.  
Date: \_\_\_\_\_

You may attach pages which address each area; however, please follow this format.

1. What specific contract provision has been violated?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. Statement of grievance and circumstances involved. (Attach additional sheets if necessary.) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Relief sought: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Grievant

\_\_\_\_\_  
Date Submitted to Supervisor

Copies to:

Pursuant to Article 2(D) (2) of this Agreement, employees are entitled to be represented by an Association representative during the processing of a grievance.

**APPENDIX C: LEVEL 2 GRIEVANCE FORM**

APPENDIX C  
NEA-BERNALILLO/BERNALILLO PUBLIC SCHOOLS  
LEVEL II GRIEVANCE

TO: \_\_\_\_\_, Superintendent

FROM: \_\_\_\_\_, Grievant

Please attach copies of: \_\_ Level Grievance, \_\_ Supervisor's Response

Basis of Appeal \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Relief Sought: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Grievant

\_\_\_\_\_  
Date Submitted to Superintendent

Pursuant to Article 2(D) (2) of this Agreement, employees are entitled to be represented by an Association representative during the processing of a grievance.

## **APPENDIX D: SALARY SCHEDULES**

The parties incorporate by reference into the agreement the salary schedules that were presented by the District.